

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

BID FOR POSITION, LLC, ) CASE NO. 2:07-cv-582 (JBF)  
Plaintiff, )  
v. ) Jury Trial Demanded  
AOL, LLC, )  
GOOGLE, INC., )  
MICROSOFT CORP., )  
and )  
MIVA, INC., )  
Defendants. )

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MICROSOFT CORPORATION, )  
Counterclaim-Plaintiff, )  
v. )  
BID FOR POSITION, LLC, )  
Counterclaim-Defendant. )

**MICROSOFT CORPORATION'S MOTION FOR LEAVE TO AMEND ITS  
ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS AND  
MEMORANDUM IN SUPPORT**

Microsoft Corporation, by counsel, moves the Court for leave to amend its answer, affirmative defenses and counterclaims. In support of this motion, Microsoft Corporation states:

1. Based on the discovery conducted to date, Microsoft has grounds to amend its answer, affirmative defenses and counterclaims to add allegations of inequitable conduct by plaintiff Bid for Position, Inc.
2. Microsoft's proposed Second Amended Answer, Affirmative Defenses and Counterclaim is attached as Exhibit 1.

3. Microsoft has provided a copy of the proposed pleading to Bid for Position's counsel. Bid for Position has informed Microsoft that it does not oppose this motion.

4. Granting Microsoft's motion will not delay the progress of this case and will not result in any change in the pretrial schedule adopted by the Court.

5. The Court should grant Microsoft's motion pursuant to Rule 15 of the Federal Rules of Civil Procedure and in the interests of justice. A proposed Consent Order granting the relief sought is being filed with this motion. An endorsed Order will be promptly submitted.

WHEREFORE, Microsoft requests that the Court grant Microsoft's motion for leave to amend.

Dated: June 5, 2008

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, William D. Dolan, III, hereby certify that on the 5th day of June, 2008, I will electronically file the foregoing with the Clerk of the Court using the CM/EMF system, which will then send a notification of such filing (NEF) to the following:

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